

STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT

IN THE MATTER OF: DAVID MATTHEW LISNEK

)
)
) File No 1300411
)
)

TEMPORARY ORDER OF SUSPENSION
AND ORDER OF PROHIBITION

TO THE RESPONDENT David Matthew Lisnek (CRD #2624952)
2500 Country Club Drive
Springfield, Illinois 62704

c/o LPL Financial, LLC (#6413)
75 State Street, 24th Floor
Boston, Massachusetts 02109

On information and belief, I, Jesse White, Secretary of State for the State of Illinois, through my designated representative, Securities Director, having been fully advised in the premises by the staff of the Illinois Securities Department, Office of the Secretary of State, herein find:

1. That David Matthew Lisnek (the "Respondent") is an Illinois resident and maintains an address at 2500 Country Club Drive, Springfield, Illinois, 62704.
2. That at all relevant times, the Respondent was registered as a salesperson and an investment adviser representative on behalf of LPL Financial, LLC ("LPL"), pursuant to Section 8 of the Illinois Securities Law of 1953, 815 ILCS 5 et seq. (the "Act")
3. That Respondent's business address is the same as his home address, which is reported as an LPL branch office
4. That PC is one of Respondent's clients and an Illinois resident. PC is 84 years old, and she stated to the Department that Respondent is her "financial planner."

Temporary Order of Suspension
and Order of Prohibition

5. That Respondent approached client PC with an investment opportunity, whereby PC would provide funds to another purported client of Respondent's so that the client could renovate a house, and in return, PC would receive the client's REIT stock.
6. That between June 6, 2013 and September 5, 2013, PC wrote eleven (11) checks in sums of \$5,000 and \$7,500, each made payable to "David Lisnek" personally.
7. That Respondent instructed PC to write checks to Respondent (personally), totaling \$65,000, and Respondent instructed her to write the checks in amounts of \$5,000 and \$7,500 at a time, purportedly to "avoid problems with the Feds "
8. That nine of the eleven checks that PC wrote to Respondent Lisnek were deposited into accounts controlled by the Respondent at a local financial institution.
9. That two of the eleven checks, totaling \$10,000 and dated June 6, 2013, were cashed by Respondent at PC's bank
10. That Respondent's employer, LPL, specifically prohibits "accepting a check from a customer made payable to any person or entity other than an LPL Financial approved product sponsor or LPL Financial." See LPL Advisory Compliance Manual at 5 2.1.
11. That on or about October 30, 2013, the Illinois Securities Department ("the Department") received information regarding a possible securities law violation from another law enforcement agency.
12. That on or about November 5-6, 2013, the Department conducted an examination of the branch office business location of 2500 Country Club Drive, Springfield, Illinois, 62704.
13. That as part of the examination, Respondent was asked to provide answers to certain questions related to his securities and investment advisory business activities and business records kept and maintained by his branch office.
14. That when questioned about the transactions, Respondent identified PC's REIT stock on PC's portfolio holding report as Retail Properties of America, Inc ("RPAI").

Temporary Order of Suspension
and Order of Prohibition

15. That Respondent printed from his computer client PC's portfolio holding report, containing the RPAI information, and provided a copy of the report to the Department's auditor.
16. That the examination revealed PC's portfolio holding report of \$38,469 in RPAI stock as of November 5, 2013, but that the report does not show the related transactions or transfer dates, from where or whom, to PC's portfolio, or how the transfers of RPAI were made. Additionally, it does not appear to total the \$65,000 or more in funds PC invested through Respondent – only \$38,469 of RPAI stock
17. Respondent, when questioned, advised Department auditors that the RPAI stock transferred into PC's account came from an LPL client with an LPL account
18. That when the Department's auditors requested the *name* of the client on the account, and the *account number* from which the RPAI REIT stock was transferred to PC's account, in exchange for her invested funds (i.e., the \$65,000 in checks PC had written to Respondent), Respondent refused to provide the name or the account number Respondent refused on three occasions during the examination to provide this requested information.
19. Upon refusing to provide the information, Respondent told the Department auditor that the client who originally owned the RPAI REIT stock did not want to reveal his/her name and account number
20. That LPL specifically prohibits "recommending or engaging in acts designed to conceal or disguise a customer's identity, the source of investment funds, or to avoid regulatory recordkeeping" See LPL Advisory Compliance Manual at 5.2.1.
21. That based on the above acts, the Respondent's registration in the State of Illinois is subject to a suspension pursuant to Section 8.E.1.(h), (m), and (r) of the Act
22. That Section 12 of the Act provides, inter alia, that it shall be a violation of the act for anyone

(F) To engage in any transaction, practice or course of business in connection with the sale or purchase of securities which works or tends to work a fraud or deceit upon the purchaser or seller thereof,

(G) To obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading;

Temporary Order of Suspension
and Order of Prohibition

(I) To employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly; and

(J) When acting as an investment adviser, investment adviser representative, or federal covered investment adviser, by any means or instrumentality, directly or indirectly.

- (1) To employ any device, scheme or artifice to defraud any client or prospective client;
- (2) To engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client; or
- (3) To engage in any act, practice, or course of business which is fraudulent, deceptive or manipulative.

- 23. That Section 11 F(2) of the Act provides, inter alia, that the Secretary of State may temporarily suspend the registration of a salesperson and an investment adviser representative, and prohibit the offer or sale of securities and/or the business of rendering investment advice by any person, in order to prevent an imminent and ongoing violation of the Act.
- 24. That based upon the above referenced information, the Secretary of State deems it necessary to temporarily suspend the registration of the Respondent as a salesperson and as an investment adviser representative; and
- 25. That the entry of this Temporary Order of Suspension and Order of Prohibition is in the public interest and is consistent with the purposes intended by the provisions of the Act.

NOW THEREFORE IT IS HEREBY ORDERED THAT pursuant to the authority granted by Section 11.F.(2) of the Act, that the registration of David Matthew Lisnek as a salesperson and as an investment adviser representative, is hereby SUSPENDED and he is PROHIBITED from offering or selling any securities and/or the business of rendering investment advice, in or from the State of Illinois until further order of the Secretary of State. Request for hearing will not stop the effectiveness of this Temporary Order and will extend the effectiveness of this Temporary Order for ninety (90) days from the date the hearing request is received by the Department

Temporary Order of Suspension
and Order of Prohibition

NOTICE is hereby given that the Respondent may request a hearing on this matter by transmitting such request in writing to the Securities Director, Illinois Securities Department, State of Illinois, 300 West Jefferson Street, Suite 300A, Springfield, Illinois 62702. Such request must be made within thirty (30) days of the date of entry of this Temporary Order. Upon receipt of a request for a hearing, a hearing will be scheduled as soon as reasonably practicable. Request for hearing will not stop the effectiveness of this Temporary Order.

FAILURE BY THE RESPONDENT TO REQUEST A HEARING WITHIN THIRTY (30) DAYS AFTER THE ENTRY OF THIS TEMPORARY ORDER SHALL CONSTITUTE AN ADMISSION OF ANY FACTS ALLEGED HEREIN AND CONSTITUTE SUFFICIENT BASIS TO MAKE THE TEMPORARY ORDER FINAL

DATED: This 13th day of November, 2013

A handwritten signature in black ink that reads "Jesse White" with a stylized flourish at the end.

JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State

Jane M. Bunten
Enforcement Attorney
Illinois Securities Department
300 W Jefferson St., Suite 300A
Springfield, Illinois 62702
Telephone: (217) 785-7368